

### US alliance obligations in the disputes in the East and South China Seas: issues of applicability and interpretations

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PRIF Report No. 141

# **US Alliance Obligations in the Disputes in the East and South China Seas**

Issues of Applicability and Interpretations

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## Summary

Competition between the United States and China has been a central focus of global power politics for some time now. As confrontation over Taiwan became less likely in recent years, China's maritime and territorial disputes in the East and South China Seas arguably have become the most prominent issue that could trigger a military conflict between the two giants. The United States is a central actor in China's maritime and territorial disputes. Although it does not have territorial claims in the waters, the United States as the dominant global naval power has a strong self-interest in preserving the freedom of navigation in the region. More important, the United States has alliance treaties with Japan and the Philippines, and both allies have maritime and territorial disputes with China. This issue might entangle the United States in the allies' military conflict. Beyond the treaty obligations, the United States has been considered to be the defender of the regional status quo, which leaves maritime boundaries in China's neighboring waters contested.

This report analyzes the perceived applicability of the alliance commitments, provided by the United States to Japan and to the Philippines, to their maritime and territorial disputes with China. After an examination of the treaty texts themselves, it discusses how the allies and China have seen the links between the alliances and the disputes because the texts of the alliance agreements alone do not offer easy interpretation and there is no authoritative judge of the applicability. Indeed, the texts of the US-Japan and the US-Philippines alliance agreements are actually quite similar, but subtle differences in the texts make their meanings significantly different. The interpretations of their applicability by the relevant actors have important consequences for the dispute dynamics. Moreover, a sound assessment of the alliance obligations is also important to analyze how developments in the waters will affect the credibility of US alliances in Asia and elsewhere.

Analyzing treaty texts, public statements, declassified documents, and policies of the relevant actors, this report seeks to provide a comprehensive assessment of this important issue. It demonstrates that the provisions of the US-Japan alliance are widely considered to be applicable to the Senkaku/Diaoyu dispute whereas those of the US-Philippine alliance have only vague applicability to the South China Sea disputes. At the same time, this report discusses how details in the texts of the alliance agreements have important implications for the dispute dynamics. Moreover, it will be demonstrated that the disputants are conscious of the conditions for activation of the US alliances; in various ways, Japan and the Philippines seek to ensure US involvement against China, while China's policy in the disputes appears to be designed to avoid US involvement.

This report also shows that it is misleading to see the United States simply as a defender of its allies and deterrer of China. Media accounts and declassified information suggest that the United States has made efforts to restrain the allies. These efforts, in combination with the US neutrality on the issue of sovereignty in the disputes, have probably moderated the emboldening effects of US security commitment. Additional support from the United States to Japan and the Philippines is likely to (and should) be combined with further measures to limit possible escalation by the Asian allies.

Given the pivotal position the United States holds in the disputes' dynamics, China, Japan, and the Philippines should take the US (conditional) neutrality on the disputes seriously. Granted, the United States may be keeping a façade to maintain strategic flexibility, but its position is still useful for avoiding escalation of the disputes, as long as it is combined with deterrence against military aggression. Rather than complaining about the problems of the US position, it is more constructive for the disputants to compete in their positive contribution to the peaceful management of the disputes, with the United States and the international society as the audience.

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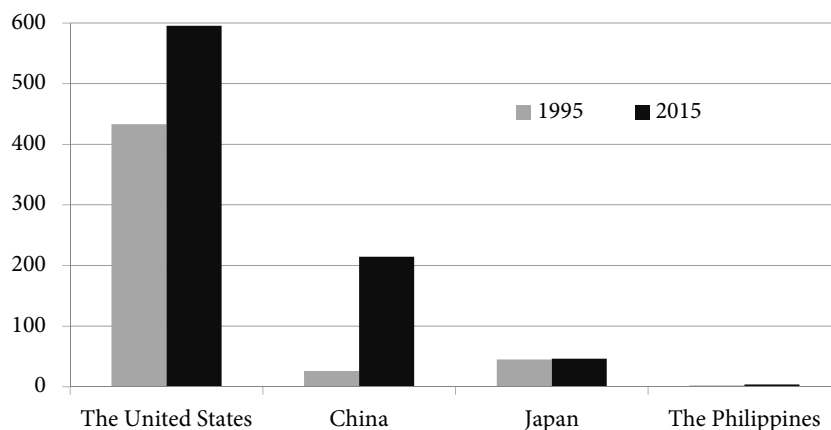
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## 1. Introduction<sup>1</sup>

In the last several years, tensions between the People's Republic of China (hereafter China) and its maritime neighbors have significantly increased. According to the Pew Research Center (2014: 8), “in all 11 Asian nations polled, roughly half or more say they are concerned that territorial disputes between China and its neighbors will lead to a military conflict. This includes a remarkably high 93% of Filipinos, [and] 85% of Japanese.”<sup>2</sup> Maritime and territorial disputes in the East and South China Seas have persisted for decades, but China's rise and its alleged “new assertiveness” (cf. Johnston 2013) have added gravity to the quarrels. Although it may sound absurd, “disputes about clumps of rock could become as significant as the assassination of an archduke,” which triggered the First World War (The Economist 2012). The rapid economic growth and rising military expenditure of China have enabled Beijing to increase its maritime presence in its neighboring waters. As Figure 1 shows, China's military expenditure has grown dramatically in the last 20 years. It now dwarfs those of its neighbors, although it still lags behind that of the United States. As China aims to increase its power-projection capability and to limit that of the United States in Asia, China's naval modernization effort presents one of the most important challenges against the US-led security order.<sup>3</sup> This has led to tensions between the United States and China, most notably in the maritime sphere.

**Figure 1: Military expenditures in 1995 and 2015, in constant 2014 US\$ (billions)<sup>4</sup>**



- 1 For their helpful comments on earlier drafts of this report, the author is grateful to Evgeniya Bakalova, Peter Kreuzer, Carolin Liss, Carsten Rauch, Hans-Joachim Schmidt, Annabel Schmitz, Bruno Schoch, Niklas Schörnig, and Jonas Wolff.
- 2 There are no directly comparable past survey results, but the inclusion of the question itself reveals increased international attention to the disputes.
- 3 On China's naval modernization, see, for example, O'Rourke (2015b).
- 4 “Figures are [...] at constant 2014 prices and exchange rates, except for the last figure [2015], which is [...] at 2015 prices and exchange rates” (SIPRI 2015).



Competition between the United States and China has been a central focus of global power politics for some time now (e.g., Christensen 1999; Ross 1999, 2006; Mearsheimer 2001, 2010; Chan 2007, 2012; Friedberg 2011; White 2012; Glaser 2015). As confrontation over Taiwan became less likely in recent years<sup>5</sup> – Taiwan under Ma Ying-jeou’s presidency (2008–2016) has significantly improved its relations with Beijing – China’s maritime and territorial disputes in the East and South China Seas arguably have become the most prominent issue that could trigger a military conflict between the two giants.

The United States is a central actor in China’s maritime and territorial disputes. Although it does not have territorial claims in the waters, the United States as the dominant global naval power has a strong self-interest in preserving the freedom of navigation in the region.<sup>6</sup> Moreover, the United States has alliance treaties with Japan and the Philippines, which might entangle the United States in the allies’ military conflict. Beyond the treaty obligations, the United States has been considered to be the defender of the regional status quo, which leaves maritime boundaries in China’s neighboring waters contested.

In order for anyone to develop sound policy on the disputes, it is essential to have a better understanding of the relevant US alliance obligations, their applicability, interpretations and resulting expectations. One of the key questions on this issue concerns the applicability of the US alliance obligations to the disputes. This report examines how the allies and China have seen the links between the alliances and the disputes because the texts of the alliance agreements alone do not offer easy interpretation and there is no authoritative judge of the applicability. Indeed, the texts of the alliance agreements between the United States and Japan and between the United States and the Philippines are actually quite similar, but subtle differences in the texts make their meanings significantly different. The interpretations of US alliance obligations affect the behavior of not only the United States but also that of the US allies and China. Although other factors also affect the strategic calculations of the disputants and the United States, the applicability has direct relevance to various effects of the US alliances (e.g., deterrence or provocation of China, restraining or emboldening of the US allies).

In fact, the interpretations of the US alliance obligations have implications for other areas of the world as well. Justifiably or not, many think that the credibility of a US alliance is strongly connected with that of other US alliances.<sup>7</sup> From this perspective, US behavior in the East and South China Seas will affect (and will be affected by) developments elsewhere. The credibility of US alliances, however, should be assessed with proper attention to the context. Alliance literature has shown that contents of alliance agreements – especially, conditions for intervention – matter in dispute dynamics (e.g., Leeds et al. 2000; Benson

5 Tsai Ing-wen took the Taiwanese presidency in May 2016, and the direction of the Cross-Strait relations under her administration is yet to be seen.

6 China objects to the United States’ military activities in China’s Exclusive Economic Zone (EEZ). The US position is that a coastal state does not have the right to regulate foreign military activities beyond 12-nautical-mile territorial waters (O’Rourke 2015a).

7 For that matter, the credibility of the United States as a security supplier is critically seen even with respect to states without alliance ties with Washington (see, for example, Cooper/Fackler 2014).

2011; Kim 2011). In order to make a sound assessment of the credibility of the United States as a security supplier, we need to have a clear idea about the applicability of US alliance agreements to various disputes.

This report, therefore, examines the applicability of the US military alliance agreements with Japan and the Philippines to the latter two states' maritime and territorial disputes with China by analyzing treaty texts, public statements, declassified documents, and policies.<sup>8</sup> More specifically, this report explains the contents of the alliance agreements that are most relevant to the disputes and examines how the allies and China have interpreted the connections between the alliances and the disputes. The analysis goes back to the 1970s but, as will be explained later, the role of the US alliances has become more important from around mid-1990s.

The following sections elucidate the history of the disputes, the relevant clauses of the alliance agreements, and the positions of the United States, Japan, the Philippines, and China. It will be demonstrated that whereas the Senkaku/Diaoyu dispute is within the scope of the US-Japan alliance, the applicability of the US-Philippines alliance in the South China Sea is vague at best. The conclusion summarizes the findings and discusses their policy implications.

## **2. Sino-Japanese disputes and the US-Japan Alliance**

### **2.1 Sino-Japanese maritime and territorial disputes**

China and Japan have disputes over maritime boundary and territory in the East China Sea.<sup>9</sup> The maritime boundary issue arises from the two countries' different interpretations of the United Nations Convention on the Law of the Sea (UNCLOS), which both have ratified. While Japan argues that the maritime boundary should be drawn according to a median line between the two countries' undisputed territories, China claims the whole continental shelf to the Okinawa Trough as "the natural prolongation" of China's land territory (Xinhuanet 2012; Dolven et al. 2014). The territorial dispute is over Japanese-controlled islands called the Senkaku by Japan and the Diaoyu by China (and called the Diaoyutai by Taiwan, which also claims the islands).<sup>10</sup> As the disagreement over the Senkaku/Diaoyu Islands has been more hostile and entails higher risks of military conflict than the dispute over maritime boundaries, this report focuses on the territorial dispute.

8 Case selection for this report is based on the substantive importance of the cases. Future research (for example, regarding the effects of US alliance obligations on dispute dynamics) should include cases with wider variation in US commitment.

9 A map of the disputed areas is displayed in Figure 2 (page 6).

10 The Chinese Nationalist Party lost the civil war to the Communist Party and fled to Taiwan, and the Republic of China government on Taiwan maintains China's historical territorial claims.

The Chinese government argues that the islands have historically belonged to China, and Japan annexed the islands as a victor of the Sino-Japanese War, which ended with the Treaty of Shimonoseki in April 1895.<sup>11</sup> Among other things, Japan annexed Taiwan through the treaty. China claims that the Diaoyu Islands were under the jurisdiction of Taiwan, which in turn belonged to the Qing Dynasty (State Council Information Office 2012). Although Japan argues that the annexation of the islands was separate from the war, the Senkaku/Diaoyu Islands, from the Chinese perspective, should have been returned to China, as Japan abandoned its imperial conquests like Taiwan after the Second World War. Due to the islands' perceived links to China's humiliation at the hands of Japanese imperialism, the territorial issue has emotional significance in Chinese discourse. China makes a geography-based claim to the islands as well – namely, that the islands are on China's continental shelf – but the history-based claim has stronger resonance for the Chinese people.

In contrast, the Japanese government, which currently controls the Senkaku/Diaoyu Islands, does not acknowledge that there is a territorial dispute over the islands. It argues that the islands were uninhabited when Japan incorporated them in January 1895. From the Japanese perspective, the Senkaku Islands are not part of the imperial territory Japan abandoned after the Second World War. Under the terms of the 1951 Treaty of Peace with Japan,<sup>12</sup> the United States administered the islands until 1972, when it returned to Japan the administrative control of the islands, along with that of Okinawa and other islands.<sup>13</sup> The Japanese government contends that China and Taiwan began claiming the islands only in 1971, after a survey by the United Nations Economic Commission for Asia and the Far East in 1968 discovered potential undersea oil reserves in the East China Sea (MFA Japan 2013, 2014).

Although Sino-Japanese relations over the Senkaku/Diaoyu Islands have seen numerous ups and downs since the 1970s, the dispute has gained larger symbolic significance over time, and informal compromise has become more difficult (see, for example, Manicoll 2014). In the past, there was an unofficial agreement between Chinese and Japanese leaders to “shelve” the dispute and maintain the status quo, although the Japanese government denies the existence of such an agreement.<sup>14</sup> In the last several years, tension has risen high in the waters near the islands. In September 2010, the Japanese government arrested and threatened to prosecute a Chinese trawler captain after collisions between his

11 The Japanese government emphasizes that the Treaty of Shimonoseki does not specifically mention the Senkaku/Diaoyu Islands.

12 Neither the People's Republic of China nor the Republic of China (Taiwan) was invited to the conference for the 1951 treaty.

13 Note that the United States simply returned the “administrative rights” without specifying to whom the islands belong.

14 Since the Japanese government nationalized three of the disputed islands on 11 September 2012, the Chinese government has criticized it as a violation of the agreement. Such an agreement is confirmed in a recently declassified British government document (Tiezzi 2015; Asahi Shimbun 2015).

ship and two Japanese coast guard vessels.<sup>15</sup> This led to suspected retaliatory behavior by China, including cancellation of official visits, detention of four Japanese nationals for videotaping in a restricted military zone, and an alleged “embargo” on rare-earth exports to Japan (Hagström 2012; Smith 2013).<sup>16</sup> In September 2012, tensions rose again because the Japanese government purchased three of the disputed islands from a private individual. The Japanese government explained that the move was to prevent the purchase of the islands by a Japanese nationalist group. This excuse, however, did not mollify either the Chinese government or Chinese public opinion, and massive anti-Japanese protests spread across China.

On its part, China has also been engaging in actions that escalate tensions. As Taylor M. Fravel (2012) puts it, China’s strategy is now to “redefine the status quo”: “China has used the presence of its civilian maritime law enforcement agencies to create new facts on the water to strengthen China’s sovereignty claims.” China’s Ministry of Foreign Affairs spokesperson asserted that patrols near the disputed islands are “routine” and “the Japanese side should face squarely the reality that a fundamental change has already occurred in the Diaoyu Islands” (quoted in Fravel 2012).<sup>17</sup> In November 2013, China announced its “East China Sea Air Defense Identification Zone” (ECS ADIZ), which includes air space over the Senkaku/Diaoyu Islands (Xinhuanet 2013). Although other states in the region had already established their own ADIZ, many worried about how the Chinese ADIZ would be implemented.<sup>18</sup> So far, Chinese “actions in the ECS ADIZ have been largely in line with international norms regarding ADIZs” (Rinehart/Elias 2015: 10). The Japanese, however, have complained about provocative incidents related to the Chinese ADIZ. For example, the Japanese government has accused Chinese fighter jets of flying dangerously close to Japanese reconnaissance planes in May and June 2014 (Rinehart/Elias 2015: 12–13).

15 Sourabh Gupta (2010) points out that Japan had not previously “threatened indictment and prosecution of such law-breakers in a domestic court of law” with respect to the dispute and thus “was setting a consequential precedent in the exercise of jurisdiction over contentious territory [...] taking a significant diplomatic risk.” On September 24, 17 days after the arrest, the Japanese government made a political decision to release the trawler captain.

16 The link between the incident and some of these policies is not clearly established. For critical analyses on the rare earth trade dispute, see, for instance, Hagström (2012: 282–283) and Johnston (2013: 23–26).

17 The number of Chinese vessels entering the contested waters has increased dramatically after Japan’s nationalization of the three islands (MFA Japan 2016)

18 For a comparison of rules of ADIZ by different states, see, for example, Rinehart/Elias (2015: 4).

Figure 2: Map of the disputed areas in the East and South China Seas



## 2.2 Treaty text of the US-Japan alliance and the Senkaku/Diaoyu dispute

The United States and Japan, former enemies of the Second World War, have been military allies since 1951, when the two countries signed the first security treaty as well as the Peace Treaty of San Francisco. The two states subsequently renewed the alliance in 1960, by signing the Treaty of Mutual Cooperation and Security between the United States and Japan. The following sentence in Article 5 of the 1960 treaty is the most relevant with regard to the Sino-Japanese disputes.

“Each Party recognizes that an armed attack against either Party *in the territories under the administration of Japan* [emphasis added] would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes.”<sup>19</sup>

19 [www.mofa.go.jp/region/n-america/us/q&a/ref/1.html](http://www.mofa.go.jp/region/n-america/us/q&a/ref/1.html). The phrase, “in accordance with its constitutional provisions and processes,” was “included to assuage congressional concerns that the agreements could be interpreted as sanctioning the President to engage in military hostilities in defense of treaty parties without further congressional authorization (i.e., a declaration of war or joint resolution authorizing the use of military force)” (Garcia/Mason 2012: 10). Such a constitutional limitation is mentioned in most alliance agreements the United States has formed after the Second World War.

There is always room for different interpretations of a treaty text, but a straightforward interpretation of the clause would mean that the United States is obligated to defend Japan against China's armed attack on the currently Japanese-controlled Senkaku/Diaoyu Islands.<sup>20</sup> Although the original motivations behind the treaty text were not related to the Sino-Japanese disputes in the East China Sea,<sup>21</sup> the treaty imposes on the United States a defense obligation that is now clearly related to the disputes.<sup>22</sup> Of course, what matters in reality is not how the treaty text sounds but how the relevant actors interpret the applicability. Let us now turn to the positions of the United States, Japan and China on the alliance and the dispute.

### 2.3 US position on the US-Japan alliance and the Senkaku/Diaoyu dispute

It is important to distinguish the United States' positions on the territorial dispute between China and Japan on one hand, and on the applicability of the US-Japan alliance to the dispute on the other hand. On the issue of sovereignty over the Senkaku/Diaoyu Islands, the US government has taken a neutral position. At the same time, however, the United States has also confirmed that the US-Japan security treaty will apply to a conflict over the Senkaku/Diaoyu Islands, because the islands are territories *under the administration* of Japan.

The neutrality of the United States on the issue of sovereignty was expressed as early as 10 September 1970, by Robert J. McCloskey, the spokesperson for the US Department of State (Tomabechi 2015: 168, 180). In his letter of 20 October 1971 for the Senate hearings on the Okinawa Reversion Treaty, Acting Assistant Legal Adviser Robert Starr made the following remark (quoted in Manyin 2013: 5):<sup>23</sup>

"The Governments of the Republic of China [Taiwan] and Japan are in disagreement as to sovereignty over the Senkaku Islands. You should know as well that the People's Republic of China has also claimed sovereignty over the islands. The United States believes that a return of administrative rights over those islands to Japan, from which the rights were received, can in no way prejudice any underlying claims. The United States cannot add to the legal rights Japan possessed before it transferred administration of the islands to us, nor can the United States, by giving back what it received, diminish the rights of other claimants. The United States has made no claim to the Senkaku Islands and considers that any conflicting claims to the islands are a matter for resolution by the parties concerned."

This neutral position has been confirmed by subsequent US administrations to the present day.

20 To some readers, the clause might sound ambiguous and weak, but such language is common in alliance agreements, and few alliance agreements declare automatic involvement.

21 Note that the islands were administered by the United States at the time.

22 On the strategic considerations behind the 1960 treaty, see, for example, Kim (2011: 366–368) and Kim (2016, Chapter 6).

23 Although this report focuses on the Sino-Japanese disputes, the US position was also influenced by its considerations for Taiwan, a formal US ally at the time of the return of the islands to Japan.

Despite this neutrality, the United States has also maintained that the 1960 US-Japan security treaty is applicable to the defense of the Senkaku/Diaoyu Islands. Initially, this applicability could be inferred from the terms of the Okinawa Reversion Treaty and the 1960 treaty. In his testimony to the Senate hearings on the Okinawa Reversion Treaty in October 1971, Secretary of State William Rogers noted that the 1960 treaty was applicable to the territory being returned to Japan, which includes the Senkaku/Diaoyu Islands (US Senate 1971: 22). A Congressional Research Service report also points out that the Senate did not include a reservation concerning the Senkaku/Diaoyu Islands in its advice and consent to the ratification of the Okinawa Reversion Treaty, despite the advice of several committee witnesses to do so (Manyin 2013: 6).

The US government clarified the applicability of its defense commitment specifically with respect to the Senkaku/Diaoyu Islands in 1996.<sup>24</sup> Japan ratified the United Nations Convention on the Law of the Sea in June 1996 and declared its Exclusive Economic Zone, including around the disputed islands. This and a Japanese right-wing group's construction of a light house on one of the islands led to counteractions by China and heightened tensions (GlobalSecurity.org 2013). In September 1996, the *New York Times* published an article in which US Ambassador to Japan Walter F. Mondale was quoted to have said that "American forces would not be compelled by the [US-Japan security] treaty to intervene in a dispute over" the Senkaku/Diaoyu Islands (Kristof 1996a). As this statement raised concerns in Japan, then Deputy Assistant Secretary of Defense for Asia and the Pacific Kurt Campbell in November and Secretary of Defense William Perry in December refuted it by confirming the applicability of the US-Japan security treaty to the Senkaku/Diaoyu Islands (GlobalSecurity.org 2012; Fravel 2010: 148).<sup>25</sup>

Subsequently, the applicability of the security treaty to the islands has been repeatedly confirmed by various officials of the US government. In February 2004, then Deputy Secretary of State Richard Armitage assured the Japanese that the US-Japan security treaty "would require any attack on Japan, or the administrative territories under Japanese control, to be seen as an attack on the United States" (Armitage 2004). In March 2004, after Chinese activists landed on the Senkaku/Diaoyu Islands, Adam Ereli, Deputy Spokesman for the US Department of State, confirmed that "Article 5 of the Mutual Security Treaty applies to the Senkaku Islands" (Ereli 2004). In February 2009, Larry Walker, a spokesperson for the American Institute in Taiwan (which serves the role of the US embassy in Taipei), stated that the US-Japan treaty applies to the islands (Kyodo 2009).

24 Larry A. Niksch, an analyst of the Congressional Research Service (then called Legislative Reference Service) had earlier written a paper titled "Competing Claims to the Senkaku Islands," dated May 28, 1974, in which he concludes that the security treaty applies to the Senkaku/Diaoyu Islands. See Eldridge (2013: 19) and Kristof (1996b).

25 Campbell recalls that his statement required some work with legal experts and implies that there was resistance within the US government to his clarification (Oshima 2015).

As tensions escalated between China and Japan in recent years, the US government made further reassurance.<sup>26</sup> Following Japan's arrest of the Chinese trawler captain in September 2010, then Secretary of State Hillary Clinton stated in October 2010 that the United States has "made it very clear that the islands are part of our mutual treaty obligations, and the obligation to defend Japan" (Clinton 2010). In September 2012, shortly after the Japanese government's purchase of the three islands, Kurt Campbell, then Assistant Secretary of State for East Asian and Pacific Affairs, reiterated the US position that "the Senkaku Islands fall clearly under article 5 of the Security Treaty" (US Senate 2012). More recently, China's land reclamation activities in the South China Sea seems to have hardened the US stance against China in the East China Sea as well. In January 2016, Admiral Harry Harris, commander of the Pacific Command, stated that the United States "will clearly defend them [the Senkaku Islands] if they are attacked by China," naming China as a potential aggressor (Kyodo 2016a).

In addition to confirming the US treaty obligation based on Japan's administration of the Senkaku/Diaoyu Islands, the US government has more recently begun reassuring Japan by opposing actions against Japan's administration of the islands. This is likely to be a response to Japan's concern about China's increasing maritime presence near the Senkaku/Diaoyu Islands, through which Beijing seeks to erode Japan's administrative control. In the National Defense Authorization Act for Fiscal Year 2013, the United States Congress declared that "the unilateral action of a third party will not affect the United States' acknowledgment of the administration of Japan over the Senkaku Islands" (US Congress 2013). In January 2013, then Secretary of State Hillary Clinton also stated that the United States opposes "any unilateral actions that would seek to undermine Japanese administration" (Clinton 2013). In April 2014, President Barack Obama reemphasized this point by saying that the Senkaku Islands have been historically administered by Japan, and the US government does "not believe that they should be subject to change unilaterally. And what is a consistent part of the alliance is that the treaty covers all territories administered by Japan" (White House 2014a).

Finally, despite the repeated public reassurance from the US government, it is important to acknowledge that the United States has also sought to restrain Japan to avoid the risk of escalation in Sino-Japanese disputes. From publicly available information, the Obama administration seems to have been more cautious about provoking China in its early years, especially before tension rose in September 2010.<sup>27</sup> In August 2010, for example, *Kyodo News* (2010) reported that the Obama administration

26 It is important to note that these reassuring statements are usually combined with the US neutrality on the sovereignty of the islands, and the US government tries to restrain Japan as well.

27 Unfortunately, there is little information about private communication between the allies. It is likely, however, that the Obama administration has been communicating less enthusiastic support to Japan in private. Public confirmation of US commitment serves both deterrence of China and reassurance of Japan whereas privately warning Japan about US reluctance to get involved can restrain Japan in the disputes.



had decided not to state explicitly that the US-Japan security treaty applies to the Senkaku/Diaoyu Islands in order to avoid irritating China.<sup>28</sup>

Even after the Obama administration increased its public support to Japan in response to the rising tension in the East and South China Seas and perceived assertiveness of China, it still continued a cautious approach. For instance, a declassified email forwarded to then Secretary of State Hillary Clinton reveals that the US government urged Japan to “consult and advise Beijing on their plans” before Japan nationalized three of the Senkaku Islands in September 2012 (Kyodo 2016b). Before the US Congress included the wording “unilateral action of a third party” (meaning China) in the draft for the 2013 National Defense Authorization Act, the US government took a position to “oppose any unilateral action to change the status quo,” not distinguishing China and Japan (Oshima 2014). Although President Obama reconfirmed the applicability of the alliance to the Senkaku/Diaoyu disputes in his remark in April 2014 discussed earlier, it should also be noted that the following passage was accompanying the commitment:

“In our discussions, I emphasized with Prime Minister Abe the importance of resolving this issue peacefully – not escalating the situation, keeping the rhetoric low, not taking provocative actions, and trying to determine how both Japan and China can work cooperatively together. And I want to make that larger point. We have strong relations with China. They are a critical country not just to the region, but to the world.” (White House 2014a)

In the questions and answers following the remark, President Obama further stated that he has “said directly to the Prime Minister [Abe] that it would be a profound mistake to continue to see escalation around this issue rather than dialogue and confidence-building measures between Japan and China” (White House 2014a).<sup>29</sup> Let us now turn to the position of Japan.

28 The US Department of State denied this, but the questions and answers on this issue at the daily press briefing are revealing. Only after lengthy exchanges in which he avoided explicit statement, Assistant Secretary Philip J. Crowley (2010) stated that “if you ask today would the treaty apply to the Senkaku Islands, the answer is yes.”

29 The US government has encouraged Japanese leaders to avoid provoking China in other issues as well. For instance, in October 2013, US Secretary of State John Kerry and Defense Secretary Chuck Hagel visited the Chidorigafuchi National Cemetery to indicate that the cemetery is a better alternative to the Yasukuni Shrine. Japanese politicians’ visits to the Yasukuni Shrine have been controversial, because it honors war criminals of the Second World War. In December 2013, after Prime Minister Shinzo Abe visited the Yasukuni Shrine, the US embassy in Tokyo stated on its website that “[t]he United States is disappointed that Japan’s leadership has taken an action that will exacerbate tensions with Japan’s neighbors” (Nishiyama 2013).

## **2.4 Japanese position on the US-Japan alliance and the Senkaku/Diaoyu dispute**

Although the Senkaku/Diaoyu Islands dispute has been an important issue for Japan since the early 1970s, the applicability of the US-Japan alliance to the islands was not an important question until relatively recently. After the Sino-American rapprochement in the early 1970s, China and the US-Japan alliance entered a cooperative relationship against the threat of the Soviet Union. The Chinese government was content to shelve the Senkaku/Diaoyu dispute because it had strong strategic interests in maintaining good relationships with Japan and the West. Moreover, even in the post-Cold War era, when the alignments of strategic interests shifted, China's modest naval capability did not pose a serious threat to Japan. The applicability of the US-Japan security treaty became salient only after 1996, when US Ambassador to Japan Mondale's interview stirred controversy (see the previous section). Japanese concerns grew later as China's military capability improved rapidly and as China began showing "new assertiveness" (cf. Johnston 2013) around 2010.

Many Japanese believe in the deterrence effect of the US-Japan alliance, but they are also skeptical about the continuation of the current commitment level in the future. While China's military expenditure continues to grow rapidly, the United States has been facing serious financial constraints on its military spending after the global financial crisis of 2007–2009. China's importance in the global economy also seems to compel the United States to take a conciliatory attitude toward Beijing. China replaced Japan as the second largest economy in the world in 2010. Like Former Japanese Foreign Minister Seiji Maehara, many Japanese have doubts about US support for Japan in the future when China's gross domestic product is even larger (Maehara 2012: 69).

In a crisis over the Senkaku/Diaoyu Islands, Japan is supposed to take the first defense responsibility to deal with China, and the Japanese are increasingly anxious about this military responsibility. During the US Senate hearings in 1971 on the Okinawa Reversion Treaty, Deputy Secretary of Defense David Packard defended the treaty partially by pointing out that the primary responsibility of defense for the returned territory would transfer to Japan (US Senate 1971: 44). In 2005, the US-Japan Security Consultative Committee noted that "Japan will defend itself and respond to situations in areas surrounding Japan, including [...] invasion of remote islands" (US-Japan SCC 2005). By the late 2000s, however, China's military rise has caused strong anxiety among the Japanese. Consequently, the government under the Democratic Party of Japan in 2010 adopted a defense policy that placed more emphasis on the defense of its southwest island chain. According to Akihisa Nagashima, who as Vice Minister of Defense participated in the planning, "[t]he growing influence of China and the relative decline of the US was a factor," and the Japanese government wanted to "help ensure the sustainability of the US forward deployment" (Kelly/Kubo 2015). The new Guidelines for US-Japan Defense Cooperation (which was originally approved in 1978 and revised in 1997) released in April 2015 states that "[t]he Self-Defense Forces will have primary responsibility for conducting operations to prevent and repel ground attacks, including those against islands. If the need arises, the Self-Defense Forces will conduct operations to retake an island" (MoD Japan 2015).

In order to understand the current concerns of Japanese policy makers, we need to recall that the US defense commitment applies to “an armed attack against either Party in the territories under the administration of Japan.” As some Japanese experts have pointed out, China may try to take control of the islands while taking various measures to avoid the involvement of the United States. For example, Masashi Nishihara argues that China can send militia disguised as fishermen so that the invasion does not constitute an “armed” attack (Minnick 2013). Whether China’s challenge comes as a “surprise grab” or “creeping invasion” (that is, gradually eroding Japanese administration), US defense commitment may become useless if Japan loses the administrative control of the islands (Rapp-Hooper 2015: 135). Thus, the qualification in the treaty text explains why the Japanese are uneasy about taking the first responsibility to defend the Senkaku/Diaoyu. Yoichiro Sato (2012) succinctly summarizes the concern:

“Despite the US rhetoric that the alliance applies to ‘all areas under the Japanese administration,’ Japan sees a loophole in the US position. Because Japan has been asked by the United States to shoulder ‘primary responsibility’ for its territorial defense, a growing number of Japanese believe that the US commitment to retaking the Senkakus if Japan loses administrative control to an invasion by China would be unavailable.”

This anxiety over the Senkaku/Diaoyu dispute has exacerbated Japan’s post-Cold War concern about US security commitment. In order to strengthen US commitment, the Japanese government in the post-Cold War era has made significant efforts to please the US government (Kim 2016, chapter 4), but China’s threat accelerated Japan’s diplomatic and defense efforts. Most significantly, this took the form of expanding Japan’s own security commitment to the alliance. The Abe cabinet in July 2014 reinterpreted Japan’s pacifist constitution in order to exercise the right of collective self-defense.<sup>30</sup> Related new security laws passed the Japanese National Diet in September 2015. As an anonymous senior US defense official commented, the 2015 Guidelines for US-Japan Defense Cooperation also “loosens the restriction on what Japan can do” militarily, and the United States and Japan will “be able to do a lot of things globally” that in the past they could do only in the defense of Japan (McLeary 2015). US-Japan security cooperation has traditionally been upgraded by US initiatives, but the revision of the guidelines this time was requested by the Japanese government under the Democratic Party of Japan in November 2012 (Nagashima 2015). The major motivation behind this Japanese request was to counter the rising threat of China by strengthening the US-Japan alliance.

Japan under Prime Minister Shinzo Abe’s second term (since 2012) has been pursuing active foreign policy to counter China’s threat. Although the moderate increase in Japan’s defense spending under Abe does help improve Japan’s military capability, maintaining US military commitment to the defense of Japan has been a more important task for Japan. Thus, for instance, the Japanese government recently conceded to the US demand for increased economic contribution for US forces stationed in Japan for the fiscal years 2016 to 2020 (Asahi Shimbun 2016).

30 The US government has advocated Japan’s exercise of collective self-defense for many years.

Finally, it is conceivable that Japan requests the activation of the US-Japan alliance against China in maritime disputes unrelated to the Senkaku/Diaoyu Islands. For instance, a Congressional Research Service Report makes the following point:

“It is unclear to what extent and in which situations the US-Japan Mutual Security treaty, which refers to an armed attack on the territories under the administration of Japan, would apply in the event of a Sino-Japanese military conflict over the two countries’ maritime boundary dispute. Regardless of the treaty’s technicalities and its interpretation, however, it is likely that Japanese policymakers and citizens would expect that the treaty would apply to any Sino-Japanese military conflict, including those involving the competing maritime claims.” (Manyin 2013: 7)

In my view, however, as long as the military conflict is limited in scale, technicalities of the treaty should help the United States to avoid involvement without too much damage to its credibility.

## **2.5 Chinese position on the US-Japan alliance and the Senkaku/Diaoyu dispute**

Many Chinese analysts believe that the US-Japan alliance is the largest obstacle to taking the Senkaku/Diaoyu Islands by force (International Crisis Group 2013: 23). The US government has clearly and repeatedly indicated that the US-Japan security treaty applies to the dispute. The Chinese government, therefore, should be estimating that US military intervention is highly likely if China tries to take the control of the Senkaku/Diaoyu Islands with “an armed attack” as long as the islands are “under the administration of Japan”.

China’s position on the US-Japan alliance has significantly shifted over time. In the early decades of the Cold War, China took a hostile stance against the US-Japan alliance but, as already mentioned, China since the early 1970s had somewhat cooperative relationships with the US-Japan alliance because of the Sino-Soviet rivalry. After the Sino-American rapprochement in 1971 and diplomatic normalization of China and Japan in 1972, China began accepting the US-Japan alliance. From the late 1970s to the early 1980s, China even welcomed strengthening of the alliance. However, as the threat of the Soviet Union faded, and as China came out of international isolation in the wake of the Tiananmen incident, China lost incentives to support the alliance. Consequently, Beijing returned to more critical stance towards the alliance in the mid-1990s (see, for example, Sugiura 2011).

Understandably, China opposes the involvement of the United States in the Senkaku/Diaoyu dispute. In fact, the Chinese government has never accepted the return of the administration of the disputed islands from the United States to Japan. It has “expressed strong opposition to the backroom deal between Japan and the United States for Diaoyu Dao, which lacked any basis for legality” (China Internet Information Center 2014). In addition to the necessity of asserting sovereignty in territorial disputes to maintain its claims, China has geopolitical rivalry with both the United States and Japan. No country readily gives up its territorial claims, but China’s current relations with the United States and Japan make it even more important for Chinese leaders to be unyielding. Although China has interests in maintaining good relationships with these two states as well, the Senkaku/Diaoyu dispute presents a salient battleground for Chinese nationalism. The US

neutrality on the issue of sovereignty over the islands is important but not trusted by many Chinese. From the perspective of popular Chinese nationalism, Japan is not only experiencing resurging militarism but also “acting as ‘a pawn of the US’ to encircle China” (Chu 2012).

As Japanese policy makers fear, China appears to be attempting to erode Japan’s administration of the disputed islands. It is possible that American and Japanese experts are reading too much into Chinese policy. Even if China simply wants to maintain the status quo, China needs to continue its protest against Japan’s position, including its administrative control. This is especially the case when Japan seems to attempt reinforcing its control of the islands (for example, by arresting the Chinese trawler captain in 2010 and by nationalizing the three islands in 2012). Current Chinese policy, however, is also consistent with a China that is seeking to change the status quo in its favor while avoiding a direct confrontation with the United States. China is challenging Japan’s administration of the islands with continuous, non-militarized incursions to the disputed waters. Beijing has avoided US counter-moves through tactics focused on “gray zone,” which are aggressive but “remain below the level that usually triggers conventional military retaliation” (Roy 2015).

Finally, China seeks to undermine the US-Japan alliance (and other US alliances) by raising fear of abandonment (that is, the alliance will not help the allies of the United States) and by emphasizing the risk of emboldenment and entanglement. Joseph Bosco, who served as China country director in the Office of the Secretary of Defense of the United States (2005–2006), makes the following point.

“Beijing [...] sows Asian doubts about US will and staying power while conveying a sense of inevitable Chinese regional dominance. It accuses Washington of emboldening reckless behavior from its security partners and then exploits any partner’s misstep as provocative conduct that will draw the US into conflict. Beijing’s message: collective security really means collective endangerment.” (Bosco 2013)

For better or worse, interviews of Chinese analysts conducted by the International Crisis Group suggest that the Chinese side actually believes in these (sometimes contradicting) risks of abandonment, entanglement, and emboldenment, and even moderates believe that the growing US presence in the region has emboldened Japan.<sup>31</sup>

In sum, the US-Japan alliance agreement is widely considered to be applicable to the Senkaku/Diaoyu dispute, and this perceived applicability has influenced the policy of the United States, Japan, and China.

31 China promotes Japan’s fear of abandonment as well. For instance, “[a]fter Abe’s visit to Washington [in February 2013] [...] Chinese state media and commentators asserted that Obama had given Abe a ‘cold shoulder’, as he did not specifically mention the island issue” (International Crisis Group 2013: 23–24).

### **3. Sino-Philippine disputes and the US-Philippines Alliance**

#### **3.1 Sino-Philippine maritime and territorial disputes**

China and the Philippines have maritime and territorial disputes in the South China Sea (which the Philippines calls the West Philippine Sea). China's vague, history-based claim of the U-shaped line (the so-called "nine-dash line") includes much of the South China Sea. The People's Republic of China inherited the broad claim made by the Republic of China since the 1930s.<sup>32</sup> Chinese claims conflict with those of the Philippines in features such as part of the Spratly Islands and Scarborough Shoal.<sup>33</sup> A legal advisor to the US Center for Naval Analyses points out that some of the Philippine claims (e.g., "ubiquitous" claims over the Kalayaan island group, which is part of the Spratly Islands) – like China's U-shaped line – lack legal weight, and the Philippine claims were made later than those of China, Taiwan, and Vietnam. He argues, however, that other Philippine claims on features such as Scarborough Shoal, Reed Bank, and Mischief Reef are better supported (Rosen 2014).

The Philippine government began sending troops to the Kalayaan island group in 1968, but the issue did not attract much attention until 1971 when the Philippine government officially announced its occupation of some features in the area (Baviera/ Batongbacal 2013: 21). Because China is a late comer in terms of occupying land features in the South China Sea, the bilateral tension rose decades later. In the fall of 1994, China occupied Mischief Reef, a Philippine-claimed submerged feature in the Spratly Islands and part of the Philippine continental shelf (Fravel 2008: 296; Rosen 2014).<sup>34</sup> Chinese-built structures on Mischief Reef were discovered by the Armed Forces of the Philippines in January 1995 and reported by Philippine fishermen in February 1995. This drew attention to China's advances in the South China Sea although this reef was occupied without armed conflict (Fravel 2008: 296).<sup>35</sup>

Since China's occupation of Mischief Reef in 1995, China and the Philippines have had intermittent episodes of minor but hostile exchanges in the South China Sea. To name some of the incidents, in 1996, three Chinese vessels engaged in a gun battle with a Philippine navy gunboat near Campones Island; in 1997, the Philippine navy ordered a Chinese speedboat and two fishing boats to leave Scarborough Shoal, and China sent three warships to survey Philippine-occupied Panata and Kota Islands; in 1998, the Philippine navy arrested Chinese fishermen off Scarborough Shoal; and in 1999, a Philippine gunboat

32 The well-known dashed-line map of 1947 was based on an earlier one titled "Map of Chinese Islands in the South China Sea" published in 1935 by the Republic of China's Land and Water Maps Inspection Committee (US Department of State 2014).

33 They have disputes over features other than islands as well. See, for example, O'Rourke (2015a).

34 Taiwan and Vietnam also claim Mischief Reef.

35 China had violent clashes with South Vietnam over the Paracel Islands in 1974 and with unified Vietnam over Johnson South Reef in 1988. The Johnson South Reef is in the Spratly Islands and claimed by the Philippines as well, but the Philippine response to the 1988 incident was muted, perhaps due to the political climate after the ouster of Ferdinand Marcos (Kreuzer 2015: 12–13).

attacked three Chinese fishing boats near Scarborough Shoal, and one of the fishing boats was rammed and sunk (Klare 2001: 124; GlobalSecurity.org 2014). In 2000, Philippine soldiers shot at Chinese fishermen off Palawan Island (which is not a disputed territory), killing one and detaining seven; between January and March 2001, the Philippine navy boarded 14 Chinese-flagged ships and ejected the vessels from contested portions of the Spratly Islands (Center for a New American Security 2016; CNN 2001). The Philippines has taken a confrontational stance toward China despite their large capability gap, although the Philippine coast guard's weakness partially explains the Philippine navy's active role in these incidents. During the presidency of Gloria Macapagal-Arroyo (2001–2010), the tension subsided due to her soft stance towards China.

A major incident in the Sino-Philippine disputes came in 2012, when the two states engaged in a standoff over Scarborough Shoal and China eventually captured the control of the shoal. The crisis began in April when the Philippine navy tried to arrest Chinese fishermen operating near the shoal. The Chinese government reacted by sending its own maritime vessels to prevent the arrest, with People's Liberation Army Navy (PLAN) vessels floating over the horizon as a deterrent against the Philippines (Ratner 2013). At the end of May, the United States brokered an informal agreement for a withdrawal of both Chinese and Philippine vessels, but China reneged on the deal in early June and returned to the shoal after the Philippine ships had departed (China denies that there was such an agreement). The Philippines sought to include a reference to this incident in a joint statement following the ministerial meeting of ASEAN in July 2012, but the host country Cambodia's pro-China stance led to ASEAN's first-ever failure in its 45-year history to issue a joint statement after its annual meeting (Fravel 2014: 6).

Frustrated by lack of effective counter-measures, the Philippines in January 2013 filed a case against China at the Permanent Court of Arbitration in the Hague, "with respect to the dispute with China over the maritime jurisdiction of the Philippines in the West Philippine Sea" (Permanent Court of Arbitration 2016). China refused to participate, but the ruling of the tribunal is legally binding even without China's participation, because both the Philippines (in 1984) and China (in 2006) have ratified the United Nations Convention on the Law of the Sea (UNCLOS) (Page 2015). In July 2016, the international tribunal in the Hague decided against Beijing's claims to the South China Sea; "the decision was so heavily in favor of the Philippines that there were fears about how the Chinese leadership would react" (Perlez 2016). As it had previously declared, the Chinese government rejected the ruling.

Since September 2013, China has been engaging in massive land reclamation in areas that are claimed by the Philippines, Vietnam, Malaysia, and Taiwan. At least three of these features are within 200 nautical miles from the Philippine Island of Palawan and thus are within the Exclusive Economic Zone (EEZ) that the Philippines claims (Dolven et al. 2015). As the Chinese government points out, Vietnam, the Philippines, Malaysia and Taiwan, have also previously reclaimed land in the areas, but the scale of the Chinese activity is far larger than those of the other claimants combined. Because China's new artificial islands have important military ramifications, the land reclamation has alarmed many countries, including the United States.

### **3.2 Treaty text of the US-Philippines alliance and the South China Sea disputes**

The Philippines, a former colony of the United States (1898–1946), has been a formal military ally of the United States since 1951. The following passages of the Mutual Defense Treaty between the United States and the Republic of the Philippines are the most relevant with regard to the Sino-Philippine disputes in the South China Sea.

#### Article IV

“Each Party recognizes that an armed attack in the Pacific Area on either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common dangers in accordance with its constitutional processes [...]”.

#### Article V

“For the purpose of Article IV, an armed attack on either of the Parties is deemed to include an armed attack on the metropolitan territory of either of the Parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.”

It is important to note that the treaty was signed in August 1951, well before the Philippines acquired the features in the South China Sea and that the United States takes a neutral position on the issue of territorial sovereignty in the South China Sea. Again, there is room for different interpretations of the text, but it is not clear whether the US defense commitment applies to Philippine-controlled territories in the South China Sea, because the Philippines did not control the territories at the time of signing the treaty and the United States has not acknowledged the Philippine jurisdiction over the disputed territories. This is significantly different from the Japanese case, because the US government has clearly acknowledged the administrative control of the Senkaku/Diaoyu Islands by Japan. On the other hand, the text also implies that the United States has an obligation to defend Philippine “armed forces, public vessels or aircraft in the Pacific” (Article V) from an armed attack. The text itself, therefore, could still mean that the alliance can be activated in certain situations in a Sino-Philippine military conflict. Let us now turn to the positions of the United States, the Philippines and China on the alliance and the disputes.

### **3.3 US position on the US-Philippines alliance and the South China Sea disputes**

The US position on the South China Sea disputes was first publicly revealed in a context outside the Sino-Philippine disputes. In the wake of a clash between China and South Vietnam in January 1974, the US Department of State declared that the South China Sea disputes were “for the claimants to settle among themselves” (Morrow 1974, quoted in Ang 1999: 13).<sup>36</sup> In private, the US government has also communicated to the Philippine side

<sup>36</sup> Incidentally, South Vietnam was not a formal military ally of the United States, despite the two countries’ strong security ties.



that it was reluctant to invoke the Mutual Defense Treaty over the South China Sea disputes.<sup>37</sup> Furthermore, on June 9, 1975, US Secretary of State Henry Kissinger, in a telegram to Admiral Noel Gayler, commander in chief, Pacific Command, and to the Manila Embassy, stated that Washington's "legal interpretation is that MDT [Mutual Defense Treaty] commitments do not repeat not apply [*sic*] in event of attack on Spratlys or on GOP [Government of the Philippines] forces stationed there" (Fuller 2014).

The US government, however, did not publicly deny the applicability of the Mutual Defense Treaty because some ambiguity seemed useful. The summary of a meeting on January 31, 1974 notes that Kissinger decided "[t]hat we do not want to do anything re the Spratly Islands that would encourage the PRC to believe it has a free hand to take military action or lead our allies to believe we are needlessly alarmed at the prospect of such action" (Foreign Relations of the United States 1969–1976). Since then, the US government has maintained neutrality on the sovereignty disputes and avoided clarifying its security commitment with respect to the disputes.

Regarding the Sino-Philippine disputes in the South China Sea, many experts point out that the United States took the first public and official position in May 1995, following China's occupation of Mischief Reef in 1994 to 1995 (e.g., Fravel 2014: 4; McDevitt 2014: 6). The statement released during a daily press briefing of the US Department of State does not mention any security commitment of the United States to the Philippines and instead emphasizes the US neutrality over the issue of sovereignty in the South China Sea (Shelly 1995).

Although the United States still maintains the neutrality over the sovereignty issue and is careful to avoid emboldening the Philippines and provoking China, the US attitude toward China has become more critical in the last several years.<sup>38</sup> For example, at the ASEAN Regional Forum in July 2010, then US Secretary of State Hillary Clinton implicitly criticized China by making the following remark and angered then Chinese Foreign Minister Yang Jiechi:

"The United States supports a collaborative diplomatic process by all claimants for resolving the various territorial disputes without coercion. We oppose the use or threat of force by any claimant. While the United States does not take sides on the competing territorial disputes over land features in the South China Sea, we believe claimants should pursue their territorial claims [...] and rights to maritime space in accordance with the UN convention on the law of the sea. Consistent with customary international law, legitimate claims to maritime space in

37 In a meeting with Secretary of State Henry Kissinger, Arthur Hummel, Deputy Assistant Secretary of State for East Asian and Pacific Affairs, said that "the atmospherics surrounding our repeated statements about these islands certainly conveyed already to the Filipinos that we don't intend to or that we don't want to" invoke the Mutual Defense Treaty (Foreign Relations of the United States 1969–1976).

38 One of the important features of the US rebalancing strategy is increased attention to Southeast Asia. This presented an excellent opportunity for the Philippines to seek stronger US support for its position on the disputes in the South China Sea.

the South China Sea should be derived solely from legitimate claims to land features.” (US Department of State 2010)<sup>39</sup>

Clinton’s statement was framed as neutrality and adherence to international law, but it clearly collided with China’s position on the disputes (Chang 2010; Pomfret 2010). With China being the strongest state among the disputants, opposition against coercion helps opponents of China. Moreover, the reference to the way claims to maritime space should be derived is an implicit criticism of China’s U-shaped line.

With China’s violation of the US-brokered deal over Scarborough Shoal in 2012 and China’s land reclamation activities, the United States has become even more critical toward Beijing and is increasing support for the Philippines in the South China Sea disputes. In April 2014, the United States and the Philippines signed the Enhanced Defense Cooperation Agreement, which facilitates the deployment of US military personnel in the Philippines on a rotational basis.<sup>40</sup> At the Shangri-La Dialogue in May 2015, US Secretary of Defense Ashton Carter criticized China’s land reclamation in the Spratly Islands, and he also announced the Southeast Asia Maritime Security Initiative, which will provide equipment and training to Southeast Asian states including the Philippines. In October 2015, when the Permanent Court of Arbitration in the Hague decided to hear the Philippines-China case, John Kirby, the spokesperson for the US Department of State, answered in his daily press briefing that the decision was good and the US government takes note of the unanimous decision by the arbitral tribunal, adding that “the decision of the tribunal will be legally binding on both the Philippines and China” (Kirby 2015). The United States has also been engaging in the so-called Freedom of Navigation operations in the South China Sea by transiting inside 12 nautical miles of artificial islands China has created (Panda 2016).

Despite the increased US support for the Philippines in the South China Sea disputes, the US government has not committed to the defense of the Philippines over the disputes. The most supportive statement of a senior US official so far seems to be that of Admiral Jonathan Greenert, the US Chief of Naval Operations, but even his statement has significant ambiguity. During his visit to the National Defense College of the Philippines in February 2014, Greenert said that the United States will help the Philippines in the event of a Chinese occupation of disputed territories. In response to a question about a hypothetical Chinese occupation of one of the disputed islands, Greenert said “[o]f course, we would help you,” “[i] don’t know what that help would be specifically. I mean, we have an obligation because we have a treaty. But, I don’t know in what capacity that help is” (Mogato 2014).<sup>41</sup> During his visit to the Philippines in April 2014, President Obama declared that US “commitment

39 It should be noted that the United States has not ratified the United Nations Convention on the Law of the Sea (UNCLOS).

40 After the Philippines closed US bases in the early 1990s, it has not allowed the establishment of permanent bases by foreign states. The Philippines, therefore, hosts the US forces as “guests” in its bases.

41 Also see Tiezzi (2014). In an interview a few days after Greenert’s remark, Admiral Harry Harris Jr., then commander of the US Pacific Fleet, supported his view: “Greenert reiterated the strength of the Mutual Defense Treaty. He reaffirmed the US commitment to the Philippines with the Mutual Defense Treaty and I agree with that completely” (Villanueva 2014).

to defend the Philippines is ironclad and the United States will keep that commitment, because allies never stand alone,” but he did not touch on the applicability of the alliance to the South China Sea disputes (neither China nor the South China Sea was mentioned in his speech) (White House 2014b).

Thus, the relationship between the US-Philippines alliance and the South China Sea disputes remains ambiguous, as acknowledged in a US Congressional Research Service Report titled “The Republic of the Philippines and US Interests – 2014.”

“The US-Philippines Mutual Defense Treaty (MDT) of 1951, which forms the foundation of the bilateral security alliance, does not explicitly obligate the United States to come to the defense of maritime areas *that are disputed* by the Philippines and other nations, and may leave room for different interpretations.” (Lum/Dolven 2014: 12, emphasis in the original)

The summary of another US Congressional Research Service Report, “Maritime Territorial Disputes in East Asia: Issues for Congress” (R42930, January 30, 2013) states that the US-Japan security treaty “covers the Senkaku islets,” but “[t]he applicability of the US-Philippines Mutual Defense Treaty to Philippine-claimed islands and waters in the South China Sea is less clear” (Dolven et al. 2013: summary). The summary of the same report updated in 2014 (R42930, May 14, 2014) does not mention the “less clear” applicability of the US-Philippines alliance, but both versions make the following point in the main text:

“Some Philippine officials have on occasion suggested the Mutual Defense Treaty with the United States should apply in the case of disputes in Philippine-claimed waters of the South China Sea. On this question, the language of the treaty is not definitive. [...] Although some American analysts have expressed support for a stronger understanding of the Treaty, most US interpretations have not explicitly included the disputed areas as part of US obligations”. (Dolven et al. 2013: 29; Dolven et al. 2014: 31)

In sum, although the United States has been increasing its support for the Philippines in the South China Sea disputes, it still maintains the neutrality over the maritime and territorial disputes and is also reluctant to commit to the defense of the Philippines over the disputes in a clear manner.

### 3.4 Philippine Position on the US-Philippines Alliance and the South China Sea disputes

Many Filipinos are skeptical or anxious about the applicability of the US-Philippines alliance to the South China Sea disputes.<sup>42</sup> This is no surprise because, as seen in the previous section, the United States has yet to give a clear security commitment to the Philippines over these disputes. Nevertheless, to strengthen its bargaining position vis-à-vis other claimants, the Philippine government has a clear interest in portraying the alliance as applicable to the disputes. Philippine officials have therefore asserted that the United States is obligated to defend the Philippines in a conflict over the South China Sea disputes (International Boundary Consultants 1998; Associated Press 2011).

42 On the skeptical views, see, for example, Aurelio (2011) and Saludo (2014).

To date, the statement of Albert del Rosario, then Philippine Secretary of Foreign Affairs, on May 9, 2012 seems to be the strongest case made by the Philippine government for the applicability of the alliance to the disputes. Among others, del Rosario made the following points:

“On January 6, 1979, US Secretary of State Cyrus Vance in his letter to Philippine Foreign Secretary Carlos P. Romulo, cited Article V of the MDT [Mutual Defense Treaty] and stated that ‘... as provided in Article V, an attack on Philippine armed forces, public vessels or aircraft in the Pacific *would not have to occur within the metropolitan territory of the Philippines or island territories under its jurisdiction in the Pacific in order to come within the definition of Pacific area* in Article V.’ [...]”

On May 24, 1999, US Ambassador to the Philippines Thomas C. Hubbard wrote a letter to Foreign Secretary Domingo L. Siazon affirming that ‘the US Government stands by its statements in the Vance-Romulo letter of January 6, 1979.’ Moreover, in the same letter, Ambassador Hubbard cited Defense Secretary William Cohen’s statement that ‘*the US considers the South China Sea to be part of the Pacific Area.*’” (Department of Foreign Affairs, Philippines 2012)<sup>43</sup>

It is important, however, to note that the US government seems to have disappointed del Rosario shortly before this statement, and his statement should be seen in the light of US reluctance to support the Philippines. Before del Rosario left for the first US-Philippine 2+2 meeting (i.e. meetings involving foreign and defense secretaries of the two states) in April 2012, he was quoted to have said that he would seek assurances that the United States would come to the aid of the Philippines over Scarborough Shoal. The press conference after the meeting (on April 30), however, suggested that he did not succeed (Philstar.com 2012; Clinton 2012).

Finally, the Philippine government’s actual position on the applicability of the alliance to the dispute is likely to be less optimistic than its public position. In its private communication with the Philippine leaders, the US government is likely to be less supportive than in public, and the Philippine government has the obvious incentive to exaggerate the US support.

### 3.5 Chinese position on the US-Philippines alliance and the South China Sea disputes

Given the vague nature of US security commitment to the Philippines in the South China Sea, China is probably less worried about US intervention in the disputes than in the Senkaku/Diaoyu dispute. Nevertheless, uncertainty over the likelihood of US intervention still keeps China cautious in its approach toward the Philippines, especially with regard to militarization of the disputes. Although the Philippines itself hardly presents threats to

43 To my knowledge, the US government has not denied the accuracy of the statement. A Congressional Research Report (O’Rourke December 10, 2012: 31) quotes much of Rosario’s statement, including the two points listed above, and the updated versions of the report (O’Rourke September 18, 2015a: 54; December 22, 2015a: 54; May 31, 2016: 64) also refer to Rosario’s statement, albeit without quoting the text.

China, the so-called emboldening effect of the US alliance may be more irritating and worrisome to Beijing in the South China Sea than in the East China Sea. Unlike Japan, the Philippines does not have enough capabilities on its own to resist China's advances in the waters (that is, the alliance with the United States makes a much larger difference in the Philippine case). Furthermore, Philippine foreign policy is not constrained by a pacifist constitution and political tradition (that is, the Philippines has fewer domestic constraints against militarization of the dispute than Japan).

Whereas the US-Japan alliance has been an important factor in China's foreign policy since the inception of the alliance, the US-Philippines alliance has long been a minor issue for Beijing. The Philippines and China normalized their diplomatic relationship in June 1975, and their relationship was reasonably cordial until China's occupation of Mischief Reef was discovered in 1995. Even then, the US-Philippines alliance continued to be a minor problem for China, because the alliance had been weakened by the closure of US bases in the early 1990s and was dormant until the end of the 1990s (Park 2011). Even in the 2000s, when the alliance had recovered from the dormancy, China was relatively benign toward the US-Philippines alliance. As Renato Cruz De Castro (2007: 4) points out,

“Instead of being intimidated by the revived US-Philippine security relationship, China decided to join the counterterrorism bandwagon. A year after 9/11, Beijing offered to cooperate with Manila in ‘all fields of defense and the armed forces which facilitate stability and the development of the region and the world at large.’”

As mentioned earlier, Sino-Philippine relations were relatively good during the presidency of Gloria Macapagal-Arroyo (2001–2010), who took an “equi-balancing” strategy (De Castro 2010) between China and the United States. China's attitude toward the Philippines became more critical after Benigno Aquino III took the presidential office in 2010, because Aquino adopted a clear pro-US policy and harder stance against China in the South China Sea disputes (De Castro 2014). Rodrigo Duterte, who became president in June 2016, has been expected to take a more conciliatory approach toward China, but it is too soon to tell if the Sino-Philippine relations will improve under his presidency.

As China became more assertive in the South China Sea, it has increased its criticism of the US involvement in the region. In June 2011, ahead of a meeting between senior Chinese and American officials, Chinese Vice Foreign Minister Cui Tiankai said that the United States should “leave the [South China Sea] dispute to be sorted out between the claimant states,” “individual countries are actually playing with fire,” and he hopes “the fire will not be drawn to the United States” (Wong 2011; Associated Press 2011). Regarding the US Freedom of Navigation operations near China's artificial islands in October 2015, Admiral Wu Shengli, commander of the People's Liberation Army Navy, reportedly made the following point: “If the United States continues with these kinds of dangerous, provocative acts, there could well be a seriously pressing situation between frontline forces from both sides on the sea and in the air, or even a minor incident that sparks war” (Reuters 2015).

Both the official position of the Chinese government and popular media are highly critical toward US alliances in Asia. In the wake of Obama's trip to Asia in April 2014, Chinese President Xi Jinping criticized reinforcement of US alliances by saying that “[t]o beef up military alliances targeted at a third party is not conducive to maintaining common

security in the region” (Ruwitch 2014). Popular media take more direct and hawkish tones. For instance, an article on *China Daily* makes the following accusation and ominous warning.

“To Washington, Manila appears an ideal stepping stone to implementing its ‘rebalancing to Asia’ strategy. Its covert and overt support to Manila is widely seen as a move to contain China’s rise. And Manila considers US support as a ticket to take more radical steps to consolidate its illegal occupation of Chinese isles and islets [...] Manila is prone playing with fire to provoke Beijing, and by continuing to do so it could spark an armed conflict one day. And should such a scenario occur, the US will find itself in an awkward position because being dragged into a full-blown conflict with China is something it does not want. It’s time the US realized nothing good could emerge out of its military alliance with the Philippines.” (Wang 2015)

As with Japan in the East China Sea, China’s recent strategy in the South China Sea disputes seems to be to redefine the status quo without using military force (Fravel 2012).<sup>44</sup> As already mentioned, China successfully seized the control of Scarborough Shoal after the standoff with the Philippines in 2012. Moreover, China’s land reclamation in the South China Sea has significantly changed the status quo without occupying additional land features in the waters. An editorial of the *Global Times* in July 2015 praised China’s land reclamation in the South China Sea as a masterpiece of diplomatic strategy because the United States and the Philippines could do nothing about it (Kyodo 2015). Such boasting was not clever on the part of China, but it is true that China has rapidly improved its strategic position in the South China Sea in the last few years – albeit with significant damage to its international image.

In sum, despite the Philippine government’s claims to the contrary, the US government has not provided security commitments to the Philippines over the disputes in the South China Sea. Washington has been only willing to create strategic ambiguity over the applicability of the alliance.

44 As Howard French (2014) points out, “China responds to most incursions into the disputed seas with its increasingly sophisticated and muscular coast guard, to avoid the appearance of militarization. The Philippines, like most states in the region, cannot match the capability of these vessels without using navy ships, which would look to the outside world like conflict escalation. For good measure, Chinese naval vessels often hover in the background, there to send a message and to be available in an emergency.”

## 4. Conclusion

This report analyzed the perceived applicability of the United States' alliances with Japan and the Philippines to the allies' disputes with China in the East and South China Seas. Specifically, it elucidated the history of the disputes, the relevant clauses of the alliance agreements, and how these states view the relationships between the alliance obligations and the disputes. Overall, the US-Japan alliance is widely considered to be applicable to the Senkaku/Diaoyu dispute whereas the US-Philippines alliance has only vague applicability to the South China Sea disputes.<sup>45</sup> Beyond this general conclusion, the issue of applicability becomes significantly more complicated.

As seen in the previous section, whether the United States is obligated to defend its ally depends on the way the ally is attacked, because the alliance agreements have conditions for activation. On the positive side, China's behavior so far suggests that the US alliances deter China from armed attacks against the US allies in the disputes. On the negative side, however, there are ways for China to challenge the status quo without triggering US involvement, and such Chinese efforts escalate tensions in the waters. The United States should not give a blank check to its allies, but conditions that limit opportunistic behavior of the allies also allow China to more readily challenge the allies.

Clarity of security commitment (or the lack thereof) is another important issue examined in this report.<sup>46</sup> Applicability of alliance obligations is in the eyes of the beholder, and this fact is sometimes strategically used. For instance, despite its reluctance to invoke the US-Philippines Mutual Defense Treaty over the South China Sea disputes, the US government has maintained ambiguity over its security commitment – most likely to deter China. In January 1974, in his discussion about the applicability of the US-Philippines alliance to the South China Sea disputes, then US Secretary of State Henry Kissinger pointed out the usefulness of such ambiguity. Although he thought that the United States “should not invoke the Mutual Security Treaty” over the Spratly Islands, he suggested that “some ambiguity in other people's minds” may be helpful (Foreign Relations of the United States 1969–1976).

This report also shows that it is misleading to see the United States as a simple defender of its allies and deterrer of China. Media accounts and declassified information suggest that the United States has made efforts to restrain the allies, and these efforts, in combination with the US neutrality on the issue of sovereignty in the disputes, have probably moderated

45 This report does not explain why the levels of US security commitment to Japan and the Philippines are different. Answering the question would require a separate paper, and I cannot offer more than brief conjectures here: Among others, Japan has been the strategically more important ally, and Japanese pacifism might have also reduced the US policy makers' fear of military entanglement. Differences in the alliance treaty texts are also significant (namely, the Senkaku/Diaoyu Islands are clearly “in the territories under the administration of Japan”).

46 Texts of alliance agreements themselves can have different degrees of clarity, but the main difference in the US-Japan and US-Philippines alliances in terms of clarity derives from the US policy in communicating security commitment.

the emboldening effects of US security commitment. Additional support from the United States to Japan and the Philippines is likely to (and should) be combined with further measures to limit possible escalation by the protégés.

Given the pivotal position the United States holds in the disputes' dynamics, China, Japan, and the Philippines should take the US (conditional) neutrality on the disputes seriously.<sup>47</sup> Granted, the United States may be keeping a façade to maintain strategic flexibility, but its position is still useful for avoiding escalation of the disputes, as long as it is combined with deterrence against military aggression. Rather than complaining about the problems of the US position, it is more constructive for the disputants to compete in their positive contribution to the peaceful management of the disputes, with the United States and the international society as the audience.

For instance, the Japanese government should consider admitting that there exists a territorial dispute over the Senkaku/Diaoyu Islands, because few outside Japan would see its current position plausible. The Philippine government should avoid physical clashes with foreign nationals (for example, in the process of arresting foreign fishermen) in the disputed waters in order to avoid the impression of aggressiveness. Accepting that its rising military capabilities inevitably alarm other states, China should refrain from aggressive rhetoric and assure its neighbors that it will not challenge the status quo of the disputes through military measures. The maritime and territorial disputes are important in the disputants' domestic politics, but their importance should be balanced with the benefit of having good relationships with the United States, attracting support of the international society, and preventing military conflict in the waters.

47 On "pivotal deterrence," and how the United States can serve a useful role as a third party to disputes, see Crawford (2003).



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